

**Hamilton Conservation Commission
Minutes of Meeting of Sept. 15, 2010
Meeting held at Hamilton Town Hall**

Commissioners present:

Nancy Baker, Virginia Cookson, Robert Cronin, Richard Luongo (co-chair)

Staff present:

Jim Hankin, Conservation Coordinator
Christine Berry, Community Preservation Committee Coordinator

Others present included:

William Manuell of Wetlands and Land Management, consultant
Preston and Allison Bradford, 6 Don Byrne Way
Mark Kuzminskas, 408 Bridge St.
David Kerr, 244 Echo Cove Rd.
Susana Colloredo-Mansfeld, Open Space Committee

The Commission is scheduled to meet on Sept. 29, Oct. 6 and Oct. 20, 2010 at 7:30 p.m. at Town Hall. Site walk is scheduled for Saturday, Oct. 2, 2010.

Richard Luongo opened the meeting at 7:39 p.m.

Conservation Coordinator Jim Hankin noted that prior to this meeting, commissioners received copies of several documents regarding the Notice of Intent for 6 Don Byrne Way. He said he anticipates that an Abbreviated Notice of Resource Area Determination (ANRAD) regarding the proposed residential redevelopment of Canterbrook, off Highland St., would be filed shortly, in time to be placed on the agenda for the Sept. 29 meeting.

Notice of Intent (public hearing continued from Aug. 18, 2010)

6 Don Byrne Way

Preston and Allison Bradford, applicants; William Manuell of Wetlands and Land Management, representative

Retaining wall and grading in buffer zone

The Commission reopened the public hearing on this Notice of Intent (NOI). The owners' representative Bill Manuell explained that Matt Mulgari, a prospective buyer of 6 Don Byrne Way who filed this NOI, has decided not to buy the property; with his consent, the current owners have assumed responsibility for the filing, but wish to amend the original proposal. Mr. Manuell said the prospective buyer's proposal was to create a retaining wall that would come within 10' of the wetland line, and add fill to create a large level back yard. The owners, Preston and Allison Bradford, now propose a less extensive project. He displayed the Bradford's amended site plan, and at Nancy Baker's request he also displayed the original plan, and pointed out differences. The Bradfords propose a 120' long retaining wall in an arc at the back of the yard, 10' farther from the wetland line than the original proposal called for. For most of the length of the wall, it would be outside the no disturb zone (NDZ) that extends 25' from wetlands, but near the middle of the run, it would come within 20' of the wetland line. The wall and the fill between it and the house would

encroach into the NDZ for 99 square feet; the original proposal would have encroached 650 square feet. He said the area is now open lawn. The wall would be at grade at the two ends, and at its highest where the yard slopes steeply, it would be 6'-7' above existing grade, which is 1-2' lower than originally proposed. He said 477 cubic yards of fill would be added, which is half as much as was originally proposed. Mr. Manuell said the wall would have to be pulled back an additional 8' to avoid any encroachment into the NDZ.

To mitigate for this encroachment, the Bradfords offer to plant 12 shrubs and trees and let natural growth revegetate in an area of 654 square feet of existing lawn that lies within the NDZ. The plantings would include red maple, witch hazel, and sweet pepper bush. They offer also to remove multiflora rose and jewelweed from the area at one end of the proposed wall, and buckthorn from the other end, and to endeavor to keep these invasive species from taking hold there again. A 12" beech would be cut at one end of the work area, and a 3" crabapple at the other. Construction access to the site would not require the removal of any trees. The original proposal called for removal of 6, or perhaps 7, trees. Erosion control would be installed between the site of the wall and wetlands, 1.5' from the wall's position, and the only construction equipment to be used, a small track vehicle, would travel only on the upland side of the wall. A 6" gravel-leveling pad would be laid, and modular blocks would be stacked to create the wall.

Richard Luongo asked how high water comes on the property in flooding conditions. The Bradfords said they observed no water on the lawn during the last such event.

Ms. Baker asked for details about equipment, and cutting, stockpiling and removal of material. Mr. Manuel said brush would be cut to grade; roots would not be grubbed. Construction vehicles would enter the area around the east side of the house. Prior to creation of the footing, the area might be leveled to accommodate equipment. A bobcat would transport pallets of blocks to the site, which would immediately be placed on the footing to create the wall. Fill would be added in stages, as the wall was constructed; after 4' of fill was in place, plastic grid would be laid on it to stabilize the area.

Virginia Cookson inquired about the location of the septic system; the Bradfords said it is on the west side of the property, far from the work area.

Conservation Coordinator Jim Hankin stated that any work in the NDZ is presumed to adversely impact the resource area. Mr. Manuell referred commissioners to his written rebuttal of the presumption of adverse impact, in the Project Description they received prior to this meeting. He said the area the Bradfords wish to change already is lawn. He said the proposed wall would serve as erosion control and prevent siltation. He said because the wall would be at the back of the yard, not visible to anyone but the owners, aesthetics are not an issue. He said the area does not flood. He said wildlife travelling from the wetlands up the lawn would be able to get around the wall.

Mr. Luongo said he believed the wall would preserve the wild area beyond the lawn better than is now the case, because the wetlands would be isolated.

Ms. Cookson made a motion for the Commission to close the public hearing. Robert Cronin seconded the motion. VOTE: Unanimous.

Ms. Cookson made a motion for the Commission to issue an Order of Conditions. Mr. Cronin seconded the motion. Commissioners specified three special conditions: (1) Any cutting in naturally vegetated woods must be to grade, without grubbing. (2) No trees are to be removed to provide site access to construction vehicles. (3) Mitigation planting is to be done within the

earliest growing season after construction. Also, the Commission appended to the OOC a finding that the applicant has rebutted the presumption of adverse impact. VOTE: Unanimous.

Enforcement Order

408 Bridge Street

Mark Kuzminskas, landowner; Hayes Engineering, representative

Consideration of lifting Enforcement Order after final monitoring report and site inspection

Commissioners commented on their recent site visit to inspect restoration planting around a pond at 408 Bridge St., where unauthorized cutting had taken place. Conservation Coordinator Jim Hankin said the Commission could now lift the Enforcement Order related to this cutting, if it so wished, because spring and fall are separate growing seasons and more than two full growing seasons have passed since the planting took place. However, when commissioners questioned this, he consulted regulations and found that the regulations define a growing season as the period from March to October. In addition, Mr. Hankin and commissioners were uncertain whether a report the landowner's consultant submitted in August adequately documented whether 75% of the restoration area is covered by wetland species, and whether no more than 15% of the vegetation is purple loosestrife, which were stipulated in the Enforcement Order as the evidence that would establish whether the restoration was successful. Nancy Baker said she observed few shrubs, and extensive grasses; she said the area is not the same wetland resource that it was prior to the cutting. Mark Kuzminskas said shrubs are present, but tall grass obscures them at this time of year.

Mr. Hankin said he would re-send to commissioners Mr. Kuzminskas's consultant's August final monitoring report, and would reread it closely himself. Commissioners continued this matter to the meeting of September 29. Mr. Hankin said he would keep Mr. Kuzminskas abreast of developments.

Request for Determination of Applicability

244 Echo Cove Rd.

Dave Kerr, applicant; William Manuell of Wetlands and Land Management, representative

Install Title V compliant septic system, closest point to edge of wetland 75', SAS almost entirely outside jurisdiction

Consultant Bill Manuell displayed a septic site plan and described the new system proposed for 244 Echo Cove Rd., which abuts Chebacco Lake; the house is being sold. The new septic system would replace an existing cesspool between the house and the road. The new leaching field would be in the front yard, and the closest it would come to wetlands is 95'. The septic tank and pumping equipment would be installed behind the house; the tank would be 80' from wetlands. Material and equipment would be brought to the site via an existing driveway, and would come no closer than 50'. Most of the back yard is lawn; there is a strip of scrubby growth along the bank of the lake.

Robert Cronin inquired about design features. Mr. Manuell said the septic system would be slightly mounded, and a membrane would be installed around the leaching field. An air-injection tank is planned, which pretreats septage before it gets to the leaching field.

Conservation Coordinator Jim Hankin said he inspected the site the day before this meeting, and confirmed the accuracy of distances and slope to the lake.

In response to Nancy Baker's question, Mr. Manuell said the Hamilton Board of Health has issued a permit for this septic system.

Ms. Baker made a motion for the Commission to grant a negative determination. Virginia Cookson seconded the motion. VOTE: Unanimous.

Discussion

CPC warrant article to acquire property on Sagamore Rd., and HCC designation as a manager of the parcel if acquired

Christine Berry, the coordinator of the Hamilton Community Preservation Committee (CPC), updated commissioners about negotiations for the Town to purchase an open space parcel of about 50 acres off Sagamore St. Open Space Committee chair Susanna Colloredo Mansfeld also provided details during this discussion.

Ms. Berry said the CPC voted the week prior to this meeting to recommend to Town Meeting the use of \$733,000 in CPA funds toward the purchase of the Donovan property. Town officials are applying for state grants for additional funds. In addition, youth sports leagues would charge at \$10 per youth participant for the next three years to raise money toward the purchase, and private fundraising is underway, Ms. Berry reported. She said Hamilton officials are pressing for Wenham to commit money from its general fund toward the project, but Wenham could not contribute CPA funds because state regulations do not permit a town to spend CPA funds on a project that takes place beyond the town's borders.

She said the Board of Selectmen wants the Commission to manage much of the property, if Town Meeting approves the purchase. She distributed an aerial photo map with the parcel drawn on it, in sections. She and Ms. Colloredo Mansfeld said the selectmen want the Recreation Department to manage the 12-acre portion of the parcel that contains athletic fields, and the Commission to oversee the remaining 39 acres, which include wetlands, a trail, and a hillside that rises to meet the U.S. Air Force Sagamore Hill Solar Radio Observatory.

Richard Luongo asked whether managing the property would require expenditures, and if so, where the money would come from. Ms. Berry said the Commission could request CPA funds for capital outlays such as construction of new trails, but CPA funds could not be used for routine maintenance. Commissioners asked Ms. Colloredo Mansfeld whether the Essex County Trails Association would consider maintaining the existing trail; she said the group would consider this.

Virginia Cookson made a motion for the Commission to accept the responsibility of managing the property if Town Meeting votes to proceed with the purchase. After discussion, commissioners concluded that such a vote should not take place until after the Oct. 30 Town Meeting. There was no second to the motion. Conservation Coordinator Jim Hankins said that if another Town board requests the Commission take formal action prior to the Town Meeting, this could take place at one of three Commission meetings scheduled to take place prior to Town Meeting.

Discussion

Open Space Committee

Susanna Colloredo Mansfeld resigned as chair and member of the Open Space Committee (OSC). She said her extensive other commitments do not allow the time and energy the OSC requires. She said the number of active members has dwindled and the committee has not met for some time. She reported briefly on the nature of the OSCs in neighboring towns.

Conservation Coordinator Jim Hankin said he would contact OCS members to find out who wants to stay involved. Commissioners thanked Ms. Colloredo Mansfeld for her work on this advisory committee.

She suggested that going forward, the OSC should focus on the 5-year action plan to put the approved Open Space Plan into effect; water resources; and recreational resources. She recommended also that the OSC should cooperate with the Essex County Trails Association and Hamilton-Wenham Green to get Hamilton residents out into local open space areas.

Request for Determination of Applicability

103 Cutler Rd.

Leslie Smith Owner, DB Johnson Rep.

Install Title V compliant septic system closest pt to EOW 68', SAS entirely outside jurisdiction

Conservation Coordinator Jim Hankin displayed a site plan for a new septic system proposed for 103 Cutler Rd. The septic system would be more than 100' from wetlands, outside Commission jurisdiction, but in order to install the septic tank in the back yard, and the line from that tank to the leaching field to be located under the existing gravel driveway to the side and front of the house, construction vehicles would have to work within the Commission's jurisdiction. He said the proposal is similar to other systems the Commission has approved.

Nancy Baker made a motion for the Commission to grant a negative determination under the Wetland Protection Act and the Hamilton Conservation By Law. Virginia Cookson seconded the motion. VOTE: Unanimous.

Certificate of Compliance

34 Black Brook Rd.

Larry Lester, trustee and applicant; Meridian Associates, representative

OOC issued 9/15/2007, recorded book 26949 page 573

Conservation Coordinator Jim Hankin said he made an appointment to inspect the worksite at 34 Black Brook Rd. with the landowner's consultant, during the week following this meeting. Commissioners continued this matter to the meeting of Sept. 29.

Enforcement Order

484 Bay Rd.

John J. Donovan, owner

Placement of fill (asphalt material) on access-way to property in buffer zones and resource areas

Conservation Coordinator Jim Hankin showed commissioners the envelope he sent by certified mail to John Donovan, containing an Enforcement Order (EO) regarding unpermitted spreading of crushed asphalt on an access-way that runs from Cutler Rd. into the back of the parcel at 484 Bay Rd. He said the unopened envelope was returned to the Commission office by the post office,

marked "unclaimed." He noted that during the site walk on Sept. 11, commissioners gathered on Cutler Rd., and could see asphalt fill on the surface of the access-way. He noted that the EO requested the owner or a representative of the owner be present for the site walk, but reiterated that the EO was returned unopened.

Mr. Hankin recommended the Commission issue a new EO directing Mr. Donovan or his representative to attend the regular meeting of Sept. 29, and accompany commissioners on a site inspection on Oct. 2. He said he would serve the new EO by hand, with a public safety escort. He suggested the Commission require in the new EO that the owner place an erosion control barrier between the access road and wetlands, but outside of the resource area, to keep the material on the road from entering the resource area.

Robert Cronin asked whether the width of the access road has changed. Mr. Hankin said it appeared that it may be slightly wider than it was when the Commission last visited the site.

Nancy Baker made a motion for the Commission to empower Mr. Hankin to serve another Enforcement Order to the landowner, by hand with an escort, and for the new Enforcement Order to direct the landowner to install erosion control to prevent the material on the access way from entering the resource area. Virginia Cookson seconded the motion. VOTE: Unanimous.

Nancy Baker made a motion for the Commission to accept the minutes of the meeting of Aug. 18, 2010 as presented. Robert Cronin seconded the motion. VOTE: The motion was approved 3-0-1 (Virginia Cookson abstaining).

Commissioners deferred to an unspecified future date discussion of whether to set stricter criteria for applications with work proposed in the no-build and no-disturb zones.

Nancy Baker made a motion for the Commission to adjourn at 9:35 p.m. Virginia Cookson seconded the motion. VOTE: Unanimous.

Minutes submitted 9/17/2010 by Ann Sierks Smith